

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MEGAN K. BOZIAK,)	CASE NO. 1:12CV2671
)	
PLAINTIFF,)	JUDGE SARA LIOI
)	
vs.)	MEMORANDUM OPINION
)	
COMMISSIONER OF SOCIAL)	
SECURITY,)	
)	
DEFENDANT.		

Before the Court is the report and recommendation of the Magistrate Judge in the above-entitled action. (Doc. No. 22.)

On February 13, 2013, plaintiff filed her brief on the merits. In response, on April 26, 2013, the Commissioner filed a motion seeking an order of remand for additional administrative proceedings in the form of “further evaluation of whether [p]laintiff’s substance use disorder is a contributing factor material to the determination of disability in accordance with Agency policy.” (Doc. No. 15 at 762.) Plaintiff opposed the motion and sought complete reversal of the Commissioner’s decision, along with an order to award benefits. In reply, the Commissioner argued that this Court is not a fact-finder and that, on the record as it is, benefits cannot simply be awarded.

The Magistrate Judge determined that there was insubstantial evidence¹ to conclude, as the Commissioner had, that “substance use [was] a factor material to the determination of [p]laintiff’s potential disability.” (Doc. No. 22 at 808.) The Magistrate Judge recommended remand under 42 U.S.C. § 405(g), sentence four, which provides that the district

¹ The transcript of the proceedings before the Commissioner was filed on January 4, 2013. (Doc. No. 10.)

court “shall have the power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.”

The Commissioner filed a response to the report and recommendation indicating that she would not be asserting any objections to the Magistrate Judge’s recommendation. (Doc. No. 23.) Under the relevant statute:

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. [. . .]

28 U.S.C. § 636(b)(1)(C).

There being no objections, having reviewed the Magistrate Judge’s report and recommendation, the Court hereby adopts the same. Accordingly, the Commissioner’s decision is reversed, and this matter is remanded pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings before a different Administrative Law Judge.

IT IS SO ORDERED.

Dated: September 18, 2013



HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE